

From: McGartland, Al [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5FE25FC1DF634F9798675527E0070429-AMCGARTL]
Sent: 7/24/2018 2:18:59 PM
To: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]
CC: Lovell, Will (William) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b150bb6ade640f68d744fadcb83a73e-Lovell, Wil]
Subject: Fw: Academies Pan Draft Science Transparency Rule, Offer To Advise EPA (comments attached)
Attachments: Natl Academies on Science Transparency proposal.pdf

Purely fyi.

Conclusion: "The potential negative consequences for EPA's ability to take needed regulatory action require more careful examination. We strongly encourage EPA to seek objective, expert guidance on the complexities of this rule and how it would be implemented. As independent and trusted advisers to the nation, the National Academies would be pleased to assist you in this effort."

Academies Pan Draft Science Transparency Rule, Offer To Advise EPA

July 23, 2018

The presidents of the National Academies, the nation's top scientific institutions, are strongly criticizing EPA's proposed rule mandating use of publicly available research to justify its regulations, charging that while the agency is seeking to cite their advice to justify the measure, it fails to adequately consider potential consequences.

"Although these earlier reports can serve as a valuable resource to help inform decisions about some elements of the proposed rule, they were not designed to address the full breadth of the issues raised by the proposed rule," the presidents of the National Academy of Sciences, the National Academy of Engineering and the National Academy of Medicine write in their July 16 comments. *The letter is available on InsideEPA.com. (Doc. ID: 213635)*

They also charge that EPA has failed to address a host of implementation concerns, such as exemptions to the policy and the risks of releasing data, and offers its help in advising the agency. "The potential impacts of the proposed rule ... will depend on many aspects of the rule's implementation that are not described in detail," the comments state.

EPA's proposed rule calls for barring the use of science where the underlying data and models are not publicly available, while allowing the administrator latitude in determining what exceptions to the rule may be made.

The measure drew strong criticism earlier this week when environmentalists renewed their calls for the administration to withdraw the proposal and start over. But industry officials renewed their support even as they detailed a series of changes they hope the agency will make.

The academies' comments raise a series of concerns targeting the rule's criteria and the lack of processes to make objective and transparent decisions about which studies will be included in scientific analyses used to inform federal regulations; approaches for evaluating the data and models used to characterize the dose-response relationships underlying federal regulations; and approaches for protecting the confidentiality of certain kinds of data while balancing the need to make data publicly available.

The letter acknowledges EPA's references to several of its reports in the agency's *Federal Register* notice announcing the proposed rule's availability for public comment. But the Academies say that the proposed rule's "scope, complexities, and potential serious implications for regulatory science and action clearly warrant additional thorough, independent, objective, and context-specific evaluation and analysis."

Among its cited reports, the officials point to two 2017 studies produced on federal statistics, arguing that "[t]here are several differences in the confidential microdata collected from individuals and businesses by federal statistical agencies ... and results from the kinds of studies that are within the scope of the EPA proposed rule. ... What works well in the federal statistical environment may not translate effectively to EPA, where stakeholders might be strongly motivated to discount study results that run counter to their regulatory preferences."

"EPA's proposed rule ignores the inherent risks involved in data disclosure, the everchanging risk landscape, and the efforts needed to mitigate those risks" including cybersecurity and the possibility of privacy breaches, the letter says.

It warns that the proposal's affects need "more careful examination," and urges the agency "to seek objective, expert guidance on the complexities of this rule and how it would be implemented. As independent and trusted advisers to the nation, the National Academies would be pleased to assist you in this effort."

The officials touch on the concern about the administrator's exemption authority as well, arguing that "It is critical for EPA to define what 'reasonable effort' would be required to make data publicly available before an exemption is granted. Decisions about exemptions should be based on formal agency guidance and not according to criteria established by a single EPA employee."